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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CARTER, et al.,

Plaintiffs

v.

MARTIN HORN, COMMISSIONER,
DEPT. OF CORRECTIONS, et al.,

Defendants

1:CV-00-0834

(Judge Caldwell)

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Schmelfenig

FILED
HARRISBURG, PA
JUL 07 2000
MARY E. DIANDREA
Deputy Clerk

COMMONWEALTH DEFENDANTS' MOTION TO DISMISS

Commonwealth defendants, Martin Horn, Jeffrey A. Beard, Raymond J. Colleran, James T. Wynder, Jr., John T. Shemo, Thomas B. Patterson, Paul DelRosso, Gerald Sobotor, Bernard Chipeco, Milton Friedman, Emanuel Patterson, Noel Booth, and Patrick Herbert, by their attorneys and pursuant to Federal Rule of Civil Procedure 12(b)(6), hereby move the Court to dismiss the complaint against them because the complaint fails to state a claim upon which relief can be granted.

A brief in support of this motion will be filed within the time permitted by the Local Rules.

WHEREFORE Commonwealth defendants pray that the complaint be dismissed.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By: *Seth A. Mendelsohn*
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DATE: JULY 7, 2000

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

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CERTIFICATE OF SERVICE

I, Seth A. Mendelsohn, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing, **Commonwealth Defendants' Motion to Dismiss** by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

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SETH A. MENDELSON
DEPUTY ATTORNEY GENERAL

DATE: JULY 7, 2000

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1:CV-00-0834

(Judge Caldwell)

ORDER

AND NOW, this ____ day of _____, 2000, upon consideration of

Commonwealth defendants' motion to dismiss, it is hereby ordered that the motion is

GRANTED. The complaint against Commonwealth defendants is dismissed.

WILLIAM W. CALDWELL, J.